IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

OP.No. 5642 of 1999(V)

PETITIONER:

V.G.SATHESSHKUMAR,
VALIYAPARAMBIL HOUSE, VILAVATTOM
CHEMPUKKAVU, TRICHUR.

BY ADV. SRI.S.SHYAM
SRI.N.K.KARNIS
SRI.T.G.LELLULAL

RESPONDENTS:

1.ADDL.SALES TAX OFFICER-I, IST CIRCLE, TRICHUR.

2.TAHSILDAR (RR), TRICHUR.

3.VILLAGE OFFICER, CHEMPUKKAVU VILLAGE,
TRICHUR.

4.STATE OF KERALA, REP. BY ITS CHIEF SECRETARY,
SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/08/2007, ALONG WITH O.P.5917/03, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.9605/99 IN O.P.NO.5642/99

DISMISSED

7.8.2007. SD/- KURIAN JOSEPH, JUDGE.
SD/- T.R.RAMACHANDRAN NAIR, JUDGE.

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE PARTNERSHIP DEED DT. 4.3.1991.

EXT.P2 : TRUE COPY OF THE LETTER ISSUED BY THE FIRST RESPONDENT DT. 15.9.1998.

EXT.P3 : TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT DT. 25.9.1997.

EXT.P4 : TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DT. 15.10.1993.

EXT.P5 : TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT. 3.2.1999.

EXT.P6 TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DT. 16.2.1999.

EXT.P7 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DT. 16.2.1999.

EXT.P8 TRUE COPY OF THE STATEMENT SHOWING THE DETAILS OF THE PAYMENTS MADE BY THE PETITIONER FROM 18.3.1997 TO 20.1.1999.

EXT.P9 TRUE COPY OF THE RECEIPTS UNDER WHICH THE PAYMENT MADE ON 18.3.1997.

EXT.P19A TO P9W TRUE COIES OF THE RECEIPTS UNDER WHICH THE PAYMENTS MADE AFTER 18.3.1997 TILL 20.1.1999.

EXT.P10 TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT OF KERALA DT. 7.3.1996 IN O.P.NO.3999/96.

TGS

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR, JJ.

O.P.Nos.5642/99 & 5917/03

Dated 7th August, 2007.

J U D G M E N T

Kurian Joseph, J.

Petitioner is one and the same in both writ petitions. He approached this Court aggrieved by the recovery steps initiated by the State for recovering sales tax arrears. The petitioner contended that the dues is actually caused by a firm consisting of the petitioner and respondents 5 and 6 in O.P.No.5917/03. According to the petitioner, to the extent of his liability, he has already paid 25% and hence for the remaining 75%, the said respondents are to be proceeded against. In the meanwhile, there arose certain disputes between the petitioner and his parents, which have been settled between the parties leading to the judgment in R.F.A.623/05. The petitioner has agreed to transfer 7.200 cents of property to his parents, free from all encumbrances. He has also undertaken to clear the dues if any, to the State. It is also submitted that only after proceeding against, if required, the rest of the property, the property that is being transferred to the parents(7.200 cents) need be proceeded against. In case the other partners of the firm have not been

proceeded against, we make it clear that the State shall take all steps to recover the dues by proceeding against the partners. It is also made clear that in the event of the petitioner alone being proceeded against ultimately, steps shall be taken against 7.200 cents of the property that is being transferred to the parents of the petitioner as per the judgment in R.F.A.623/05, only if the same is required after exhausting all the steps against the remaining property of the petitioner.

The writ petitions are disposed of as above.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

tgs

KURIAN JOSEPH &

T.R.RAMACHANDRAN NAIR, JJ

O.P. NOs..5642/99 & 5917/03

J U D G M E N T

Dated 7th August, 2007.